

Donald Barrett

From: Brian K. Middendorf [bmiddendorf@hostedstore.com]
Sent: Saturday, November 15, 2003 2:12 PM
To: John Maihos
Cc: Donald Barrett; Bob Maihos
Subject: Formal notice

I am hereby filing a formal notice that I am being harassed by a fellow employee. I request that the proper investigation is performed and that steps are initiated to remedy the situation.

On 11/14/03 at approximately 8:36PM Pacific time I received a call on my company cell phone from telephone number 781.858.3510. I answered the phone and the reply on the other end was "When are you coming back out here?" I asked "Who is this?" three times and each reply was "When are you coming back out here?" I then hung up the phone. Although the caller did not identify himself, the voice sounded like Rick Cushman. The source telephone number is provided above so that you can investigate who the number belongs to and reference the Nextel log for my phone to verify the call occurred.

I received two additional calls that night on Line 1 (no caller ID) at approximately 9:02PM and 11:02PM Pacific time. The first call hung up and the second one was just silent on the other end. I have no idea if it was the same caller, but I do not normally receive hang up calls at that time of night.

Past direct and indirect harassment from Rick Cushman includes the following events:

- 1) I was unable to attend the going away party for Michelle Keefer because I received a call from Karen Cushman informing me that Rick Cushman was telling fellow employees that he was going to strike me when I walked in the door. I did not hear this threat myself, but I am sure that it can be easily verified by interviewing employees that were at the party. I do not know the exact date of this incident (it was in June 2003 I believe), but I am sure the date can be found in company records of the going away party.
- 2) During June or July of 2003 I received a call from Chris Brown. He called to inform me that Rick Cushman had asked him if he knew where I lived in Washington. Chris Brown thought the request was strange so he called to warn me. Obviously Rick Cushman had no need to know my home address to perform his duties for DMC. Given the earlier incident in June 2003, I can only assume that he was inquiring because he intended to show up at my home.
- 3) On 10/27/03 (that is the date to the best of my recollection), Rick Cushman showed up at my apartment in Massachusetts. He knocked on the door and when I did not answer the door he turned the doorknob and attempted to enter. The door was locked. I immediately notified Steve Paris and he has asked Rick Cushman to stay off of his property.
- 4) Later on 10/27/03, I was leaving customer service after an attempt to talk to Robert Maihos. Rick Cushman was in the hallway with his son, saw me, and yelled something to the effect of: "So you guys are finally back. Come on Dale let's go see mom. We'll take care of that guy later."
- 5) Later on 10/27/03, Karen Cushman informed me that Rick Cushman had told her something to the effect of: "Tell Brian he better watch out." I did not hear the threat myself, but I am sure that it can be easily verified.
- 6) On 10/30/03 I met Karen Cushman and three other DMC employees at Acapulcos during lunch. After lunch, Karen Cushman, Nadine, Keri Palmer, and I walked out the front door to leave (Dick Maihos had already left). Rick Cushman showed up and talked to Karen Cushman

while Keri Palmer and I stood off to the side and talked. During the conversation Rick Cushman was sitting down on the concrete wall and staring me down through the bus stop windows. I asked Keri Palmer if she noticed it and she confirmed that she did. After Rick Cushman and Karen Cushman finished their conversation, Rick Cushman stood up and walked closer to the bus stop window. He stood there and stared me down as Keri Palmer, Nadine, and I walked back to customer service. Keri Palmer remarked something to the effect of "he's even scaring me now." I immediately called Robert Maihos to notify him of the incident. Later that day I confirmed with Karen Cushman that she too had noticed that after she finished her conversation Rick Cushman stood up, walked closer to the bus stop window, and was staring me down as I walked away. She further informed me that after she finished her conversation she had asked Rick Cushman to go back inside. He replied something to the effect of: "No, I think I'll stand out here for awhile."

7) During the week of 10/27/03 (I believe it may have been 10/30/03) I received a call from Robert Maihos. He informed me that John Maihos had offered Rick Cushman a medical leave package, he was upset by it, and he left the DMC campus. Robert Maihos was calling to warn me because he feared that Rick Cushman would retaliate against me. When I hung up the phone with Robert Maihos I was standing at a crosswalk. I walked across the crosswalk and a vehicle turning right stopped inches from my leg and the driver yelled "Dickhead!" out his window. I turned to look back and the driver was Rick Cushman. He was talking on his cell phone while staring me down through the window.

8) After the crosswalk incident I continued to walk home. I could hear a vehicle approaching slowly on the other side of the road. When I turned to look it was Rick Cushman driving by slowly staring me down while talking on his cell phone. He had to turn his vehicle around to do this because he had turned onto an entirely different road when I was in the crosswalk. I notified Steve Paris immediately and he said he would again tell Rick Cushman to stay away from his property.

9) During the week of 10/27/03 I was walking to customer service and I ran into Scot Sarver and Kim Castelli. I stopped to talk. During the conversation Kim Castelli mentioned that Rick Cushman told her that he had caught me in bed with his wife. I informed her that the statement was not true. I have since heard from other parties that similar slanderous statements are being initiated by Rick Cushman.

10) During the week of 10/27/03 I received a call on my company cell phone. When I answered the phone, a voice that sounded like it was being disguised said "Back off" and then hung up. I did not recognize the voice, but I can only assume that it was Rick Cushman given the events of the week and the fact that I do not normally receive calls like that .

-brian.